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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/844,933	04/26/2001	Bryan K. Chan	2466-18	2079
26797	7590	04/01/2008	EXAMINER	
SILICON VALLEY PATENT AGENCY			KOPPIKAR, VIVEK D	
7394 WILDFLOWER WAY			ART UNIT	PAPER NUMBER
CUPERTINO, CA 95014			3626	
MAIL DATE		DELIVERY MODE		
04/01/2008		PAPER		

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**BEFORE THE BOARD OF PATENT APPEALS  
AND INTERFERENCES**

Application Number: 09/844,933

Filing Date: April 26, 2001

Appellant(s): CHAN ET AL.

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Joe Zheng  
For Appellant

**EXAMINER'S ANSWER**

This is in response to the appeal brief filed November 5, 2007 appealing from the Office action mailed June 4, 2007.

**(1) Real Party in Interest**

A statement identifying by name the real party in interest is contained in the brief.

**(2) Related Appeals and Interferences**

The examiner is not aware of any related appeals, interferences, or judicial proceedings which will directly affect or be directly affected by or have a bearing on the Board's decision in the pending appeal.

**(3) Status of Claims**

The statement of the status of claims contained in the brief is correct.

**(4) Status of Amendments After Final**

The appellant's statement of the status of amendments after final rejection contained in the brief is correct.

**(5) Summary of Claimed Subject Matter**

The summary of claimed subject matter contained in the brief is correct.

**(6) Grounds of Rejection to be Reviewed on Appeal**

The appellant's statement of the grounds of rejection to be reviewed on appeal is correct.

The copy of the appealed claims contained in the Appendix to the brief is correct.

**(7) Claims Appendix**

The copy of the appealed claims contained in the Appendix to the brief is correct.

**(8) Evidence Relied Upon**

6,047,259 Campbell

Handee, William; "The Perception of Visual Information" 1997. 2nd Edition. Springer Verlag, New York, Inc. p. 326.)

## **(9) Grounds of Rejection**

The following ground(s) of rejection are applicable to the appealed claims:

### ***Claim Rejections. 35 USC § 103***

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claims 1-9, 18-29, 38-46 and 54 are rejected under 35 U.S.C. 103(a) as being unpatentable over *Joao* (6,283,761; hereinafter *Joao*), in view of *Campbell et al* (6,047,259; hereinafter *Campbell*), and in view of *Handee* (*Handee, William. "The Perception of Visual Information"* 1997.2<sup>nd</sup> Edition. Springer Veritag, New York, Inc. p. 326.; hereinafter *Handee*).

(A) As per claim 1, *Joao* discloses a method for managing

(1) receiving patient data over a network from a user regarding a health condition being experienced by the user (Joao: abstract; col. 3, lines 34- 45; Fig. 1-15B);

(2) performing an analysis of the patient data, the analysis including numerical analyses (Joao: abstract; col. 17, lines 24-61, col. 19, lines 21- 33) (Insofar as Applicant claims "the analysis including one or more of statistical analysis implemented based on a survey among a group of similar people with respect to the health condition in the filtered data, data variability analysis, trend forecasting, significance of data, distribution of data, projection of data, computation of

trends, linear and non-linear regression techniques, curve-fitting methods, or numerical analyses," numerical analyses have been recited.);

(3) outputting directly to the user, in response to the patient data, a medical recommendation of the health condition based on a second database, that includes medical decision-making intelligent agents, accesses to clinical research information, related health databases or resources controlled by various professional participants, wherein the medical recommendation includes what the user is suggested to do in regarding to the health condition (Joao: abstract; col. 4, lines 39-47; Fig. 1-15B);

(4) alerting automatically through the network related parties (Joao: col. 5, lines 7-18); an

cases and wellness online, the method comprising

(5) filtered patient data (Joao: col. 20, lines 21-27).

Joao, however, fails to expressly disclose a method for managing diseases and wellness online, the method comprising:

(6) filtering the patient data according to a first database to produce filtered patient data, wherein the filtering of the patient data comprises:

(a) discarding some of the patient data that is not so related to the health condition; and

(b) requesting correction or verification on some of the patient data with the user when the patient data appears abnormal according to the first database; and

(7) alerting parties regarding the user if the health condition is deemed to be attended by professionals.

Nevertheless, these features are old and well known in the art, as evidenced by Hendee and Campbell. In particular, Hendee and Campbell disclose a method for managing diseases and wellness online, the method comprising:

(6) filtering the patient data according to a first database to produce filtered patient data, wherein the filtering of the patient data comprises:;

(a) discarding some of the patient data that is not so related to the health condition (Hendee: p. 326); and

(b) requesting correction or verification on some of the patient data with the user when the patient data appears abnormal according to the first database (Campbell: col. 9, lines 65-66); and

(7) alerting parties regarding the user if the health condition is deemed to be attended by professionals (Campbell: col. 11, lines 31-56; col. 13, lines 47-51). One of ordinary skill would have found it obvious at the time of the invention to combine the teachings of Campbell with the combined teachings of Joao and Hendee with the motivation of more effectively managing the administration of healthcare to a patient based on their condition (Campbell: col. 1, lines 7-14). One of ordinary skill would have found it obvious at the time of the invention to combine the teachings of Hendee with the combined teachings of Joao and Campbell with the motivation of improving decision-making in view of a patient's condition (Hendee: p. 326).

(B) As per original claim 2, Joao fails to expressly disclose the method of claim 1, wherein the

receiving of the patient data comprises:

- (1) verifying the user by looking up an account associated with the user;
- (2) requiring the user to set up the account if the account can not be verified; and
- (3) composing a number of questions based on the first database in conjunction with the account if the account can be verified.

Nevertheless, these features are old and well known in the art, as evidenced by Campbell. In particular, Campbell discloses the method of claim 1, wherein the receiving of the patient data comprises:

- (1) verifying the user by looking up an account associated with the user (Campbell: abstract; col. 6, lines 20-64; Fig. 1-14);
- (2) requiring the user to set up the account if the account can not be verified (Campbell: abstract; col. 6, lines 20-64; Fig. 1-14); and
- (3) composing a number of questions based on the first database in conjunction with the account if the account can be verified (Campbell: abstract; Fig. 1-14).

One of ordinary skill would have found it obvious at the time of the invention to combine the teachings of Campbell with the combined teachings of Joao and Hendee with the motivation of more effectively managing the administration of healthcare to a patient based on their condition (Campbell: col. 1, lines 7-14).

(C) As per original claim 3, *Joao* discloses the method of claim 2, wherein the account lists the health condition about the user and wherein the first database includes common knowledge database about the health condition, the knowledge database

being constantly updated with other related servers on the network (*Joao*: abstract; col. 7, lines 42-48; col. 16, line 33-colo 20, line 20).

(D) As per claim 4, *Joao* discloses the method of claim 3, wherein the patient data includes answers from the user to the questions (*Joao*: abstract; col. 16, line 33-col. 20, line 20; col. 29, lines 15-39).

(E) As per original claim 5, *Joao* discloses the method of Claim 1, wherein the receiving of the patient data comprises receiving diagnostic data from a diagnostic test device (*Joao*: abstract; col. 16, line 3-co1.20, lines 20).

(F) As per original claim 6, *Joao* discloses the method of claim 1, wherein the patient data includes diagnostic data from a diagnostic test device (*Joao*: abstract; col. 16, line 3-co1.20, lines 20).

(G) As per previously presented claim 7, *Joao* discloses the method of claim 1, wherein:

(I) the first database includes a common knowledge database that is constantly updated with other related servers on the network (*Joao*: abstract; col. 7, lines 42-48; col. 16, line 33-col. 20, line 20).

(H) As per original claim 8, *Joao* discloses the method of claim 7, wherein the analysis includes a statistical analysis and a medical analysis of the patient data (*Joao*: abstract; col. 17, lines 25-61; col. 20, lines 12-20).

(I) As per original claim 9, *Joao* discloses the method of claim 8, wherein the performing of the analysis of the patient data comprises:

(1) obtaining statistical features of the patient data through the statistical analysis (Joao: abstract; col. 17, lines 25-61; col. 20, lines 12-20);

(2) determining possible causes related to the health condition out of the patient data in conjunction with the statistical features (Joao: abstract; col. 17, lines 25-61; col. 20, lines 12-20).

(J) As per previously presented claim 18, Joao discloses the method of claim 1, wherein the second database is a medical management knowledgebase including one or more static and dynamic information from multiple sources pertaining to the health condition (Joao: abstract; col. 7, lines 42-48; col. 16, line 33-col. 20, line 20).

(K) As per previously amended claim 19, Joao discloses the method of claim 18, wherein the health condition includes one of a disease or a health issue (Joao: abstract; col. 7, lines 42-48; col. 16, line 33-col. 20, line 20).

(L) As per previously amended claim 20, Joao fails to expressly disclose the method of claim 1, wherein the receiving of the patient data over the network comprises:

(1) maintaining an account associated with the user; and (2) updating the account with the patient data related to the health condition.

Nevertheless, these features are old and well known in the art, as evidenced by Campbell. In particular, Campbell discloses the method of claim 1, wherein the receiving of the patient data over the network comprises:

(1) maintaining an account associated with the user (Campbell: abstract; col. 6, lines 20-64; Fig. 1-14); and

(2) updating the account with the patient data related to the health condition  
(Campbell: abstract; col. 6, lines 20-64; Fig. 1-14).

One of ordinary skill would have found it obvious at the time of the invention to combine the teachings of Campbell with the combined teachings of Joao and Hendee with the motivation of more effectively managing the administration of healthcare to a patient based on their condition (Campbell: col. 1, lines 7-14).

(M) As per currently amended claim 21, Joao discloses a method for managing diseases and wellness online, the method comprising:

(1) maintaining an account associated with a user having a health condition

(Joao: abstract);

(2) receiving over a network a request from the user to access the account

(Joao: abstract);

(3) receiving data from the user in response to the questions, wherein the data includes answers to the questions and/or diagnostic data received from a diagnostic test device pertaining to the health condition (Joao: abstract; col. 16, line 3-co1.20, lines 20);

(4) wherein the first database includes common knowledge database about the health condition and is being constantly updated with other related servers on the network (Joao: abstract; col. 7, lines 42-48; col. 16, line 33- col. 20, line 20);

(5) performing an analysis of the patient data (Joao: abstract; col. 17, lines 24-61);

(6) providing directly to the user a medical recommendation of the health condition based on a second database that includes medical decision-

making intelligent agents, accesses to clinical research information, related health databases and resources controlled by various professional participants, wherein the medical recommendation includes what the user is suggested to do in regarding to the health condition (Joao: abstract; col. 4, lines 39-47; Fig. 1-15B); (7) alerting related parties (Joao: col. 5, lines 7-18); and (8) filtered patient data (Joao: col. 20, lines 21-27).

Joao, however, fails to expressly disclose a method for managing diseases and wellness online, the method comprising: (9) composing a number of questions from the account after the user is authenticated; and

(10) filtering the patient data according to a first database to produce filtered patient data, wherein the filtering of the patient data comprises:

(a) discarding some of the patient data that is not so related to the health condition;

(b) requesting correction or verification on some of the patient data with the user when the patient data appears abnormal to the first database; and

(11) alerting related parties regarding the user if the health condition is deemed to be attended by professionals.

Nevertheless, these features are old and well known in the art as evidenced by Hendee and Campbell. In particular, Hendee and Campbell disclose a method for managing diseases and wellness online, the method comprising:

(9) composing a number of questions from the account after the user is

authenticated (Campbell: abstract; Fig. 1-14); and

(10) filtering the patient data according to a first database to produce filtered patient data,

wherein the filtering of the patient data comprises:

(a) discarding some of the patient data that is not so related to the health condition (Hendee: p. 326);

(b) requesting correction or verification on some of the patient data with the user when the patient data appears abnormal to the first database (Campbell: col. 9, lines 65-66); and

(11) alerting related parties regarding the user if the health condition is deemed to be attended by professionals (Campbell: col. 11, lines 31-56; col. 13, lines 47-51).

One of ordinary skill would have found it obvious at the time of the invention to combine the teachings of Campbell with the combined teachings of Joao and Hendee with the motivation of more effectively managing the administration of healthcare to a patient based on their condition (Campbell: col. 1, lines 7-14).

One of ordinary skill would have found it obvious at the time of the invention to combine the teachings of *Hendee* with the combined teachings of *Joao* and *Campbell* with the motivation of improving decision-making in view of a patient's condition (*Hendee*: p. 326).

(N) Previously amended claim 22 substantially repeats the same limitations as those of claim 18 and therefore, is rejected for the same reasons given for claim 18 and incorporated herein.

(O) Previously amended claim 23 substantially repeats the same limitations as those of claim 19 and therefore, is rejected for the same reasons given for claim 19 and incorporated herein.

(P) As per original claim 24, *Joao* discloses the method of claim 21, wherein the account is maintained in a server coupled to the network, and wherein the request is generated from a terminal device being used by the user, the request being an IP request including an address identifying the server (*Joao*: abstract; col. 15, line 17-col. 16, line 33).

(Q) As per original claim 25, *Joao* discloses the method of claim 24, wherein the terminal device is capable of data communication with the server over the network and includes a display screen to display the medical recommendation (*Joao*: abstract; col. 15, line 17-col. 16, line 33).

(R) As per original claim 26, *Joao* discloses the method of claim 25, wherein the terminal device is selected from a group consisting of a personal computer, a network enabled cellular phones, a portable computing device and a personal digital assistant (*Joao*: abstract; col. 14, lines 49-58; col. 15, line 17-col. 16, line 33).

Examiner has noted insofar as claim 26 recites, "selected from a group consisting of a personal computer, a network enabled cellular phones, a portable computing device and a personal digital assistant," a personal computer is recited

(S) As per original claim 27, *Joao* discloses the method of Claim 24, wherein the medical recommendation is in a format of a markup language displayable on the terminal device (*Joao*: abstract; col. 15, line 17-col. 16, line 33).

(T) As per original claim 28, *Joao* fails to expressly disclose the method of claim 21, wherein the composing of the number of questions comprises generating the questions about the user in reference to the health condition and further in reference to the first database.

Nevertheless, these features are old and well known in the art, as evidenced by *Campbell*. In particular, *Campbell* discloses the method of claim 21, wherein the composing of the number of questions comprises generating the questions about the user in reference to the health condition and further in reference to the first database (*Campbell*: abstract; Fig. 1-14).

One of ordinary skill would have found it obvious at the time of the invention to combine the teachings of *Campbell* with the combined teachings of *Joao* and *Hendee* with the motivation of more effectively managing the administration of healthcare to a patient based on their condition (*Campbell*: col. 1, lines 7-14).

(U) Claims 29, 38-46 and 54 substantially repeat the same limitations as those of claims 1-20 and therefore, are rejected for the same reasons given for those claims and incorporated herein.

4. Claims 10-17, 30-37 and 47-53 are rejected under 35 U.S.C. 103(a) as being unpatentable over *Joao*, in view of *Campbell*, in view of *Handee*, as applied to claim 1 above, and further in view of *LaPointe et al.* (US 2001/0023419; hereinafter *LaPointe*).

(A) As per previously amended claim 10, *Joao* fails to expressly disclose the method of claim 9, wherein the statistical analysis of the patient data includes at least one of a fundamental statistics, a data variability analysis, correlation analysis, causal analysis and a trend forecasting.

Nevertheless, these features are old and well known in the art, as evidenced by *LaPointe*. In particular, *LaPointe* discloses the method of claim 9, wherein the statistical analysis includes a fundamental statistics, a data variability analysis, and a trend forecasting (*LaPointe*: abstract; ¶ [0005], [0023] - [0029], [0080], [0130]). One of ordinary skill would have found it obvious at the time of the invention to combine the teachings of *LaPointe* with the combined teachings of *Joao*, *Campbell*, and *Handee* with the motivation improving diagnostic methodologies (*LaPointe*: ¶ [0020]).

(B) As per original claim 11, *Joao* fails to expressly disclose the method of claim 10, wherein some of the statistical features by the fundamental statistics include mean, mode, max, min, ratios and fractions to determine an appropriate sorting algorithm.

Nevertheless, these features are old and well known in the art, as evidenced by *LaPointe*. In particular, *LaPointe* discloses the method of claim 10, wherein some of the statistical features by the fundamental statistics include mean, mode, max, min, ratios

and fractions to determine an appropriate sorting algorithm (*LaPointe*: abstract; ¶¶ [0005], [0023]- [0029], [0080], [0130]).

One of ordinary skill would have found it obvious at the time of the invention to combine the teachings of *LaPointe* with the combined teachings of *Joao*, *Campbell*, and *Handee* with the motivation improving diagnostic methodologies (*LaPointe*: ¶ [0020]).

(C) As per original claim 12, *Joao* fails to expressly disclose the method of claim 10, wherein the variability analysis determines how significant the patient data is as well as the patient data is distributed.

Nevertheless, these features are old and well known in the art, as evidenced by *LaPointe*. In particular, *LaPointe* discloses the method of claim 10, wherein the variability analysis determines how significant the patient data is as well as the patient data is distributed (*LaPointe*: abstract; ¶7 [0005], [0023]- [0029], [0080], [0130]).

One of ordinary skill would have found it obvious at the time of the invention to combine the teachings of *LaPointe* with the combined teachings of *Joao*, *Campbell*, and *Handee* with the motivation improving diagnostic methodologies (*LaPointe*: 7 [0020]).

(D) As per original claim 13, *Joao* fails to expressly disclose the method of claim 10, wherein the trend forecasting includes a projection of the patient data, computation of trends with respect to the patient data using one or more mathematical methods.

Nevertheless, these features are old and well known in the art, as evidenced by *LaPointe*. In particular, *LaPointe* discloses the method of claim 10, wherein the trend

forecasting includes a projection of the patient data, computation of trends with respect to the patient data using one or more mathematical methods (*LaPointe*: abstract; ¶ [0005], [0023]- [0029], [0080], [0130]).

One of ordinary skill would have found it obvious at the time of the invention to combine the teachings of *LaPointe* with the combined teachings of *Joao*, *Campbell*, and *Handee* with the motivation improving diagnostic methodologies (*LaPointe*: 7 [0020]).

(E) As per previously presented claim 14, *Joao* fails to expressly disclose the method of claim 13, wherein the one or more mathematical methods include one or more linear regression techniques, non-linear regression techniques, curve-fitting methods and numerical analyses.

Nevertheless, these features are old and well known in the art, as evidenced by *LaPointe*. In particular, *LaPointe* discloses the method of claim 13, wherein the one or more mathematical methods include one or more of linear and/or non-linear regression techniques, curve-fitting methods and numerical analyses (*LaPointe*: abstract; ¶ [0005], [0023] - [0029], [0080], [0130]).

One of ordinary skill would have found it obvious at the time of the invention to combine the teachings of *LaPointe* with the combined teachings of *Joao*, *Campbell*, and *Handee* with the motivation improving diagnostic methodologies (*LaPointe*: ¶ [0020]).

(F) As per original claim 15, *Joao* fails to expressly disclose the method of claim 8, wherein the performing of the analysis of the patient data comprises, through the medical analysis, evaluating a state of the health condition using a medically related

logic, risk stratification, and protocols/algorithms/guidelines that pertain to the health condition.

Nevertheless, these features are old and well known in the art, as evidenced by *LaPointe*. In particular, *LaPointe* discloses the method of claim 8, wherein the performing of the analysis of the patient data comprises, through the medical analysis, evaluating a state of the health condition using a medically related logic, risk stratification, and protocols/algorithms/guidelines that pertain to the health condition (*LaPointe*: abstract; ¶¶ [0005], [0023] - [0029], [0080], [0130]).

One of ordinary skill would have found it obvious at the time of the invention to combine the teachings of *LaPointe* with the combined teachings of *Joao*, *Campbell*, and *Handee* with the motivation improving diagnostic methodologies (*LaPointe*: ¶ [0020]).

(G) As per original claim 16, *Joao* fails to expressly disclose the method of claim 15, wherein the medically related logic is a medical modeling logic that simulates a medical decision-making process and is based on general medical decision making principles.

Nevertheless, these features are old and well known in the art, as evidenced by *LaPointe*. In particular, *LaPointe* discloses the method of claim 15, wherein the medically related logic is a medical modeling logic that simulates a medical decision-making process and is based on general medical decision making principles (*LaPointe*: abstract; ¶¶ [0005], [0023] - [0029], [0080], [0130]).

One of ordinary skill would have found it obvious at the time of the invention to combine the teachings of *LaPointe* with the combined teachings of *Joao*, *Campbell*, and *Handee* with the motivation improving diagnostic methodologies (*LaPointe*: par. [0020]).

(H) As per original claim 17, *Joao* fails to *expressly* disclose the method of claim 15, wherein the medically related logic is a medical modeling logic that is based on branch/tree logic and hash or hash-like array memory structures.

Nevertheless, these features are old and well known in the art, as evidenced by *LaPointe*. In particular, *LaPointe* discloses the method of claim 15, wherein the medically related logic is a medical modeling logic that is based on and hash or hash-like array memory structures (*LaPointe*: abstract; ¶¶ [0005], [0023] - [0029], [0080], [0130]).

One of ordinary skill would have found it obvious at the time of the invention to combine the teachings of *LaPointe* with the combined teachings of *Joao*, *Campbell*, and *Handee* with the motivation improving diagnostic methodologies (*LaPointe*: ¶ [0020]).

(I) Claims 30-37 substantially repeat the same limitations as those of claims 1-20 and therefore, are rejected for the same reasons given for those claims and incorporated herein.

#### **(10) Response to Arguments**

The applicants arguments will be addressed in sequential order as they were presented in the Appeal Brief filed on November 5, 2007.

(1) Applicants argue that the prior art of record and specifically the Joao reference does not teach the step of "managing a disease by patient him/herself". The Office would like to point, however, the claim 1 does not require this limitation.

(2) Applicants argue that the report taught in the Joao cannot be used by anyone, especially those not skilled in the art. However, the Office would like to point out that the claim1 does not specify who the user is.

(3) Applicants argue that Joao teaches an indirect method to manage disease and wellness while the instant application teaches a direct method to manage disease and wellness. Once again, Claim 1 does not stipulate that the method has to be direct.

(4) Applicants argue that Joao does not teach that the parties will be automatically contacted if the data provided by the patient is abnormal. However, Claim 1 does not require this limitation.

(5) Applicants argue that the Hendee references teaches a decision support system for physicians, not their patients. However, the Office would like to point out that Claim 1 does not specify who the user is.

(6) Applicants argue that the patient data in the Campbell reference is static while the patient data in the instant application is dynamic. Once again, the Office would like to point out that the Claim 1 does not stipulate that the data is dynamic or real-time data.

(7) Applicants argue that the Campbell reference does not teach the step of "alerting automatically through the network related parties regarding the user if the health condition is deemed to be attended by professionals." However, the Office would like to point that the Joao

reference teaches this very feature (Joao: Col. 5, Ln. 7-18) and this point was set forth in the rejection of Claim 1, which is included above.

(8) Finally, Applicants argue that the combination of Joao and Campbell is not proper and could render a system so built completely useless. The Office interprets this statement as being a spurious statement which is not supported by evidence. Once again, as set forth in the rejection of Claim 1, above, proper motivation exists for combining the teachings of Joao and Campbell. As stated in the rejection of Claim 1, above, the motivation for combining these two references is to have a means of more effectively managing the administration of healthcare to a patient based on their condition, as recited in Campbell (Campbell: Col. 1, Ln. 7-14).

**(11) Related Proceedings Appendix**

No decision rendered by a court or the Board is identified by the examiner in the Related Appeals and Interferences section of this examiner's answer.

For the above reasons, it is believed that the rejections should be sustained.

Respectfully submitted,

/Vivek D Koppikar/

Examiner, Art Unit 3626

/C Luke Gilligan/

Supervisory Patent Examiner, Art Unit 3626

Conferees:

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